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September 27, 2002

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
c/o Vistronix, Inc.
236 Massachusetts Ave., N.W. – Suite 110
Washington, DC 20002

Re: CC Docket No. 00-251
In the Matter of Petition of AT&T Communications of Virginia, Inc., TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia and MediaOne Telecommunications of Virginia, Inc. for Arbitration of an Interconnection Agreement With Verizon Virginia, Inc. Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996

Dear Ms. Dortch:

On behalf of AT&T Communications of Virginia, LLC enclosed please find an original and three (3) copies of the Opposition of AT&T Communications Of Virginia LLC To Verizon Virginia Inc.'s Submission Of Additional Record Evidence in the above referenced case.

Thank you for your consideration in this matter.

Sincerely yours,

Mark A. Keffer

cc: Service List
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of AT&T Communications of	)	
Virginia, Inc., Pursuant to Section 252(e)(5)	)	
of the Communications Act for Preemption	)	CC Docket No. 00-251
of the Jurisdiction of the Virginia	)	
Corporation Commission Regarding	)	
Interconnection Disputes with Verizon	)	
Virginia, Inc.	)	

OPPOSITION OF
AT&T COMMUNICATIONS OF VIRGINIA LLC
TO VERIZON VIRGINIA INC.'S
SUBMISSION OF ADDITIONAL RECORD EVIDENCE

The Verizon submission to selectively update costs for uncollectables in the Gross Revenue Loading factor should be rejected by the Bureau for three fundamental reasons.[1] First, it is procedurally improper and cannot be allowed into the record because it comes long after the record has closed, because it violates the orderly procedures the Bureau set forth at the outset of this unique proceeding, and most importantly, because it is contrary to fundamental notions of due process.

Second, because the development of rates involves the review of many interrelated factors, it would be improper to accept the "updated" Verizon information without also reopening the record to update the data for other rate elements, including for example switching costs and fill factors, and other costs that may be affected by using 2001 base year data in lieu of 1999 base year data. Given the significant time that has

[1] Verizon Virginia Inc.'s Submission of Additional Record Evidence, with the attached Declaration of Louis D. Minion (September 13, 2002) ("Verizon Submission").

already elapsed since this proceeding was initiated and litigated, such a result would be highly undesirable.

And third, Verizon's assumption that uncollectables would continue to be high enough to require an upward adjustment to future TELRIC rates for UNEs is seriously questionable, because there are reasons to find that the current condition is merely a temporary spike, and that other factors will require a downward adjustment of TELRIC UNE prices. If the record were to be re-opened – and it should not -- Verizon's assumption would require, at the least, exploration in a hearing and further briefing.

More fundamentally, Verizon's ploy to jack up UNE rates by increasing the uncollectables element of the Gross Revenue Loading factor is simply another facet of the ILECs' relentless campaign to raise UNE prices to a level that would make UNE-P an unattractive vehicle to introduce competition in the local exchange services marketplace. That campaign is based in part on the difficulties experienced by CLECs in today's telecommunications environment.

For example, in SBC's recent *ex parte* letter to Chairman Powell and the Commissioners arguing for higher UNE rates *in this arbitration*, SBC's Mr. Daley argues that asserted higher wholesale uncollectables "must be accounted for in the cost of capital used to calculate wholesale prices."[2] Aside from the fact that such *ex parte* communications are unlawful in an on-the-record proceeding such as this one, it is self-evident that Verizon is simply singing the same song from the same songbook as SBC.

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[2] Letter to the Honorable Michael K. Powell, FCC, from William M. Daley, SBC, dated September 9, 2002, Attachment A, page 6, footnote 6. See also, the Letter of William B. Barr, Verizon, to the Honorable Michael K. Powell, FCC, dated July 16, 2002.

The Bureau should not be mislead that the ultimate objective of this and similar ILEC initiatives is simply to make UNE-P entry untenable.[3]

I. The Verizon Submission is procedurally improper and should be rejected.

The Verizon Submission is procedurally improper and cannot be allowed into the record, because it comes almost eleven months – 316 days – after the hearings in the cost phase of this arbitration were concluded and the record was closed, and 225 days after the reply briefs on costing issues were filed. Verizon, without as much as a motion for leave to file, has submitted extremely late-filed extra-record "evidence" on one narrow pricing issue on one narrow rate element – the effect of the uncollectable rate on the Gross Revenue Loading factor – that it now seeks to incorporate into the long-closed record. Verizon would deny AT&T, WorldCom and Cox the opportunity to cross-examine Verizon's Declarant on the veracity and accuracy of his representations, to present their own evidence on the issue, or to brief the Bureau on what, if any, significance Verizon's "evidence" may have in the setting of TELRIC-compliant rates in this arbitration. Verizon wants the Bureau to simply accept that "evidence" without any further process at all, due or otherwise.[4]

But the procedural calendar ran out on Verizon many months ago. The procedures that the Bureau adopted for this arbitration do not contemplate that the parties

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[3] The *ex parte* contacts are obviously improper communications to the Commission in this arbitration proceeding, which is an on the record litigation between specific parties, in the nature of a quasi-judicial rather than a quasi-legislative rulemaking. There is no excuse for such *ex parte* contacts by persons that are clearly interested and will be affected by the arbitration's result, even if those persons are not parties to the case. The Commission should take appropriate remedial action to vitiate the consequences of these unlawful *ex parte* contacts.

[4] *See* Verizon Submission at 5-6 and footnote 7, where Verizon graciously volunteers to "perform the required calculation as part of its compliance filing," that is, without any further opportunity for scrutiny by the Bureau or rebuttal by other interested parties.

may submit material for the record long after the record has closed, but before the Bureau renders its decision. Nor do the procedures adopted by the Bureau contemplate that the parties may introduce evidence without a sponsoring witness, without cross-examination, without an opportunity to introduce other evidence on the issue, and without briefing. Indeed, the exact opposite is true. The Bureau was careful to provide that no evidence would be accepted into the record except after being thoroughly vetted in a hearing and after full due process. Indicative of its untenable position is Verizon's failure even to bother to file a motion for leave to reopen the record to file its evidentiary padding.

Verizon's claim that this "evidence" was not available at the time of the hearing or briefing of the pricing issues is unavailing.[5] Verizon does not explain why it waited until September 13, 2002 to file its material, which is based on 2001 data and presumably was available not long after the close of the reporting year, as is, for example, the FCC's ARMIS data. Verizon's 2001 ARMIS data were available on the FCC's website mid-April, 2002 and presumably was available to Verizon itself well before that, because it compiled the data. Had Verizon acted in a more timely fashion, the material could have been submitted, vetted in a hearing and briefed, and would not have caused any undue delay in the arbitration decision. However, to allow this material into the record now would require substantial additional time for hearing, the submission of additional relevant evidence by other parties, and briefing, a result which would needlessly and unduly delay the Bureau's pricing decision.

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[5] Verizon Submission at 1.

Verizon's ploy to introduce its uncollectables "evidence" must be rejected because it is contrary to the procedures long established by the Bureau for this proceeding. It must be rejected because Verizon's attempt to pad the record is contrary to fundamental notions of due process. And it must be rejected because it is way too late to change the rules at this late stage of the proceeding.

II. The effects of Verizon's Submission cannot be viewed in isolation.

Verizon's "evidence" that its rate of uncollectables has risen must be rejected for a further reason: Verizon has failed to show that the *overall* costs of supplying UNEs in Virginia has increased substantially since the close of the record. Changes in one subset of the costs of service obviously do not, without more, justify reopening of the record. A regulated carrier's costs of service are continually changing, which is why pricing cases typically settle upon one base year for pricing models. In this instance, Verizon chose to use 1999 as the base year. If the Commission were to accept Verizon's procedural standard for reopening the record to consider 2001 data for uncollectables -- and uncollectables only -- pricing cases would never end. Parties could continuously submit new cost data on a piecemeal basis and demand a recalculation of the rates. The Bureau should not accept this distortion of hornbook rate case procedure.

The Supreme Court of Virginia has agreed that, in this context, it is proper for the Virginia State Corporation Commission to refuse to reopen the record for one issue in a rate case, because it would cause delay and confusion, and because it would "require updating all capacity changes to a current level."[6] Moreover, when the shoe was on the

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[6] *Old Dominion Electric Cooperative* v. *Virginia Electric and Power Company, et al.*, 237 Va. 385, 396 (1989). The Court went on to state that: "At best, a general rate case gives the Commission a view of the operations of a utility at a moment in time. The next moment events may have changed considerably. We agree with the Commission that it would cause delay and

other foot, Verizon itself recently (and successfully) argued in the recent Delaware UNE proceeding that "the other parties dispute other data contained in Verizon DE's cost studies [are] unfairly seeking to take advantage of developments since [the close of the pricing record] that have the tendency to reduce costs, while depriving Verizon DE of the counterbalancing effect of data updates that have increased costs since that time."[7]

As Verizon has recognized, it would be fundamentally unfair if a party could selectively pick and choose different years' data for different cost inputs, or components of inputs, to support its pricing case, with updated evidence submitted only for those costs that went up, not down.[8] This kind of selective, result-oriented updating is not the usual practice in rate cases, and indeed was not the practice in the rate phase of this arbitration. The base year used by Verizon in the pricing proceedings for its cost studies for Virginia was 1999.[9] Verizon now seeks to selectively update the record for one cost input – the Gross Revenue Loading factor – in one narrow respect – uncollectables – using 2001 data. But it is one-sided and unfair to allow Verizon to update data for that rate element, while failing to update the data for other cost inputs that have declined. In

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confusion to reopen a complex record of this kind to substitute actual figures for projected ... figures." *Id.* at 397.

7 *In the Matter of the Application of Verizon Delaware Inc (f/k/a Bell Atlantic-Delaware, Inc.) for Approval of its Terms and Conditions Under Section 252(f) of the Telecommunications Act of 1996 (Filed December 16, 1996; Reopened June 5, 2002)*, PSC Docket No. 96-324 Phase II, Brief of Verizon Delaware Inc. (November 13, 2001)("Verizon Delaware Brief") at 10. The case for reopening the record is far weaker here than in the Delaware UNE proceeding, where the evidence offered by the proponents of reopening showed that the intervening cost changes almost certainly produced a large net reduction in UNE costs. Here, Verizon has failed to show that the net result of the various changes in costs since the close of the record before the Commission is an increase in costs, let alone a material increase.

8 Verizon Delaware Brief at 11; in the same proceeding, Exceptions of Verizon Delaware Inc. (January 10, 2002) at 2.

9 Verizon Submission at 3.

effect, acceptance of Verizon's new "evidence" on uncollectables would require a new rate proceeding using new rate data for other rate elements.

This is a highly undesirable result, given the extended time it has already taken to litigate this proceeding. The parties are entitled to a decision now based on the record that was amassed under the procedures the Bureau established at the outset.

Moreover, this is not the way that pricing cases are conducted. Verizon has not cited a single precedent out of either FCC or Virginia SCC jurisprudence that would support a reopening of the record of a rate case for a single cost input almost a year after the close of the record, using base year data of a different vintage than the base year data used for every other component of costs in the case. As the Virginia SCC has stated: "Rate cases have to end, and we will not open this record to accommodate events and arguments arising after all parties have had a fair opportunity to address the issues."[10] Verizon makes no claim—nor can it—that it has lacked a fair opportunity to address the issues. Verizon itself has argued that it would not "result in fair, cost-based and TELRIC-compliant UNE rates if the Commission allowed the other parties to 'pick and choose' the areas [from the prior record] to modify, without looking at all of the [prior] inputs and the other potential changes that certainly would have the tendency to increase rates."[11]

Verizon attempts to save its untenable position by asserting that it would have the right to bring up its new "evidence" on reconsideration even if the Bureau does not

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[10] *Commonwealth of Virginia, ex rel. State Corporation Commission* v. *Virginia Electric and Power Company, Defendant*, 1988 WL 166804 (Va. Corp. Com.) at 12.

[11] Verizon Delaware UNE Brief at 9.

consider it in its initial decision.[12] However, the opportunity to seek reconsideration is not a vehicle to fundamentally alter the predicates of a rate case. Altering the base year of uncollectables for one rate element (out of many rate elements), on a selective basis, cannot justify such a deviation from established procedures—particularly when Verizon has failed to show that the alleged increase in uncollectables, even if credited in all respects, would not increase its *overall* costs of providing UNEs to the wholesale trade.[13]

The assumption that overall costs have increased materially since the close of the record is particularly questionable here, because several significant costs of service almost certainly have declined since 1999. For example, and without limitation, the cost-saving developments have included a continuing decline in the cost of capital, the major recent declines in the cost of switching equipment, the increase in fill factors necessitated by Verizon's "no facilities, no build" policy for CLEC orders for high capacity loops and inter office facilities ("IOF"), and the availability of loop switching technology to reduce manual hot cut costs. Any rise in the rate of uncollectables since 1999 is likely to have been swamped by the recent downward trend in these other costs.

Cost of Capital: The relevant cost of capital has been declining for several years, and is now almost certainly lower than the 9.58 percent value sponsored by AT&T and WorldCom in this proceeding (a value which was based on data as of June 2000). Indeed, the judgment of some state commissions is that the cost of capital for the business of selling UNEs at wholesale in Verizon's territory is as low as 8.5%.

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[12] Verizon Submission at 4, footnote 4.

[13] This does not mean that Verizon cannot raise UNE pricing issues in later proceedings, as of course can AT&T and any other interested party, by Verizon's own admission.

Verizon's claim that its risk has increased because of facilities based competition is laughable. The near-total collapse of the CLEC sector almost certainly has decreased Verizon's net forward-looking risk, as the dwindling band of surviving CLECs pose far less of a competitive threat than investors believed that Verizon and other ILECs faced in 1999. Furthermore, Verizon has enjoyed higher retail revenues as the result of the flight of retail customers from the faltering CLECs and the return of those customers to Verizon.

Moreover, it is likely that Verizon, as other ILECs, will take a significant chunk of the long distance market, which will increase Verizon's revenues and decrease its capital costs. For example, Atlantic ACM forecasts that ILECs such as Verizon "will increase their share of the long distance market to 22.8 percent in 2007 from 6 percent in 2001," and that revenue from long distance sales "will grow to $15.6 billion from $5.7 billion during that time."[14]

If the record were reopened, then the cost of capital would also have to be reconsidered in light of these developments.

Cost of Switching Equipment: The very same problems that Verizon considers to be "fundamental changes in industry structure"[15] – the CLEC bankruptcies and reductions in service – have caused a reduction in the price of switching equipment over the last year or so. Equipment suppliers, such as Lucent and Nortel, have suffered declines in business at least equal to if not more than the decline experienced by the CLECs. As a consequence, competition for switch business has intensified, and prices have declined. As a result, the original and replacement switch cost data that Verizon

[14] Bloomberg, September 25, 2002.

and the other parties used in their cost studies in this arbitration almost certainly overstate today's forward-looking costs. If the record were to be reopened, this development would have to be recognized as well.

Change in fill factors necessitated by Verizon's "no facilities, no build" policy: Verizon's high capacity loop and IOF policies *vis-à-vis* the CLECs require an upward adjustment to fill factors used in Verizon's cost model. Throughout the proceedings below, Verizon argued that the need to maintain spare capacity to accommodate future growth in demand for loops justified allowing Verizon to recover the costs of stockpiling large amounts of spare loop capacity by accepting the assumption of relatively low fill factors in Verizon's loop cost models. It is now clear that the provisioning policies invoked by Verizon to justify recovering the costs of this massive spare capacity were largely if not entirely a fabrication.

As the recent record before the Commission in the Virginia 271 case makes clear, Verizon either lacks the spare capacity or has established a policy to withhold such capacity from CLECs, and as a consequence the costs of the spare capacity must be reduced.[16] The record establishes that:

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[15] Verizon Submission at 1.

[16] See WC Docket No. 02-214, *Application by Verizon Virginia Inc., Verizon Long Distance Virginia Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization To Provide In-Region, InterLATA Services in Virginia*, AT&T comments (Aug. 21, 2002) at 13-16; *id.*, AT&T Reply Comments (Sept. 12, 2002) at 9-13; *id.*, Allegiance comments (Aug. 21, 2002) at 3-13, and Best Aff. ¶¶ 2-12; *id.*, Cavalier comments (Aug. 21, 2002) at 7-10; *id.*, Covad comments (Aug. 21, 2002) at 23-27; *id.*, NTELOS comments (Aug. 21, 2002) at 4-5; *id.*, StarPower comments (Aug. 21, 2002) at 4-13.

- Since May 2001, Verizon has enforced a discriminatory and anticompetitive "no facilities" policy, whereby Verizon refuses to provide unbundled access to such loops when it would require "additional construction."[17]
- The "additional construction" that triggers Verizon's "no facilities" policy includes such routine or minor tasks as installing a repeater shelf in the central office, customer location, or remote terminal; providing an apparatus/doubler case; placing fiber or a multiplexer; adjusting the multiplexer to increase its capacity; placing riser cable or a buried drop wire; or placing fiber or copper cable to replace defective copper cable or provide spare capacity.[18]
- Indeed, Verizon admitted during the hearings that it will deny a CLEC's UNE DS-1 order for "no facilities" even when all that Verizon Virginia must do to provide the requested service is open a cable sheath to splice existing pairs into an existing apparatus case.[19]
- Invoking its "no facilities" policy, Verizon rejects up to 39 percent of CLEC orders for high capacity loops in Virginia—a rejection rate that dwarfs the corresponding rejection rates of other BOCs, which are typically in range of three percent.[20]
- In contrast, Verizon aggressively solicits and fills DS1 orders received from its retail end users under the same circumstances. In the 271 hearing before

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17 *See* Allegiance comments, *supra*, at 3; *id.*, Best Aff.; Cavalier comments, *supra*, at 7-8.

18 *See* Allegiance comments, *supra*, at 4-6; *id.*, Best Aff. ¶¶ 3, 5 Covad comments, *supra*, at 23-24.

19 Virginia SCC 271 Tr. 98, 676, 690; Covad Comments, *supra*, at 24.

20 *See* Allegiance comments, *supra*, at 4; *id.*, Best Aff. ¶¶ 4, 10; Covad comments, *supra*, at 24.

the Virginia SCC, Verizon acknowledged that it "will build for the retail side," but not for CLECs.[21]

- Verizon has refused repeated requests from CLECs to change this policy, even when a CLEC is willing to pay the cost of the repeater shelf or the apparatus/doubler case.[22]
- Verizon's "no facilities" policy—or, more precisely, its "no facilities for UNEs" policy—is a major barrier to competition in Virginia. When Verizon refuses to provision an unbundled DS1 loop on the pretext that "no facilities" are available, the only alternative open to the CLEC (other than abandoning the potential retail customer to Verizon) is to obtain a special access circuit from Verizon. Recurring special access charges are approximately five times the recurring cost of a DS1 loop plus cross-connect. Moreover, Verizon's requirement that the CLEC cancel the UNE order and resubmit a special access order increases the installation interval, and thereby delays the initiation of service to the CLEC's customer, by approximately 30 additional days.[23] Cancellation of the retail customer's order, followed by loss of the customer to Verizon, is likely to ensue.[24]

Verizon's adoption of this discriminatory provisioning policy, apart from its clear violation of the anti-discrimination standards of the 1996 Act, requires a major downward revision in the fill factors previously assumed by all the parties in the UNE arbitration

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21 Virginia SCC Case No. PUC-2002-00046, Hearing Tr. 681; *see also* Allegiance comments, *supra*, at 6; *id.*, Best Aff., *supra*, ¶ 6; Covad comments, *supra*, at 25.

22 Allegiance comments, *supra*, at 7.

23 *See* Allegiance comments, *supra*, at 7-8; *id.*, Best Aff., *supra*, ¶¶ 7-10; Cavalier comments, *supra*, at 8-9; StarPower comments, *supra*, at 5.

24 NTELOS comments, *supra*, at 4.

pricing phase pending before the Commission. The cost studies submitted by both sides in the UNE pricing case assumed that an efficient forward-looking firm would maintain a substantial amount of spare capacity in anticipation of future growth in demand.

Stated another way, the UNE price implicitly includes a CLEC's right to buy more loops or IOF whenever the CLEC needs more loops or IOF, to the extent of the spare capacity reflected by the fill factor. Those rights have a cost to Verizon and a value to the CLEC, which is reflected in the price of the UNE loop or IOF. If Verizon truly does not maintain the spare capacity needed to fulfill requests for additional loops, the TELRIC-compliant rate for a loop is far less than the parties (including AT&T and WorldCom) assumed when submitting their cost studies.

Failing to recognize the effect on loop and IOF costs on Verizon's policy to deny CLECs a facility when it is "not available," and Verizon's refusal to "build" that facility for a wholesale UNE customer, would in effect deprive CLECs of the value that they pay for by buying UNEs. Verizon would get to pocket the extra value included in the price for the UNE because of the excessive fill factors that it advocates.

The bottom line is that current loop and IOF rates do not adequately reflect Verizon's current practice with respect to provisioning high capacity loops and IOF. If Verizon is allowed to get away with its current policies in this regard, then the UNE prices for loops and IOF will be clearly excessive, and will need to be reduced to reflect Verizon policies. This should be done by raising fill factors to levels that comport with Verizon's policies. Thus if, the record were to be updated, AT&T would be entitled to demonstrate the proper level of fill factors and prices in light of current Verizon policies for the provision of high capacity loops and IOF.

III. In any event, Verizon's assertions regarding a one-time spike in its uncollectables rates have nothing to do with the forward-looking uncollectables rate of an efficient firm.

Even if the alleged spike in Verizon's rate of uncollectables were a legitimate reason for reopening of the record—and it is not—Verizon has failed to show that a material increase in the rate of collectables has occurred. Verizon's overall loss in 2001 for switched access uncollectables, as reported in its ARMIS reports, increased only from 0.44% to 0.59% from year 2000 to year 2001, in its South territory that includes Virginia.[25]

Verizon's ploy here is simply another aspect of its attempt to bring local exchange services competition to its knees. Verizon has filed a petition seeking an unconscionable broadening of its deposit and advance payment powers.[26] As AT&T has shown in that proceeding, Verizon's existing powers are more than enough to protect its interests in prompt payment by CLECs, and its proposed tariff provisions are overbroad, unreasonable and anticompetitive. AT&T also showed that the current level of uncollectables simply do not support more stringent tariff provisions.[27] In a related matter, the Commission properly suspended Verizon tariffs that would have broadened its ability to require security deposits and advance payments.[28] Here, as in those other proceedings, the Commission should reject Verizon's attempt to shackle competition in the local exchange markets by increasing CLEC costs.

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[25] 2000 and 2001 ARMIS 43-01, Table I, Cost and Revenue Table, Traffic Sensitive: Total Column (r), Network Access Services, Row 1020, Uncollectables, Row 1060.

[26] *Petition for Emergency Declaratory and Other Relief*, WC Docket No. 02-202.

[27] *See, e.g.*, Reply Comments Of AT&T Corp. (August 22, 2002).

[28] *In the Matter of The Verizon Telephone Companies Tariff FCC Nos. 1, 11, 14 and 16*, Transmittal No. 226, Order released August 22, 2002.

Second (and equally important), Verizon has failed to show that the increase in uncollectables for 2001 represents anything more than a temporary spike caused by the current shakeout of the CLEC sector. Verizon claims that there is a "profound shift in the underlying nature of the industry," that is "likely to continue."[29] However, that conclusion is basically unsupported by any facts, other than the unsworn and undocumented speculation of one Wall Street analyst.[30] It is just as likely that the current spate of CLEC bankruptcies is close to running its course, that the surviving firms will reach a new point of equilibrium, and that the increase in uncollectables will diminish. TELRIC is a long term cost model. In the absence of evidence that the rise in uncollectables is a permanent or long-term phenomenon—and without an opportunity for AT&T and other CLECs to subject any such evidence to discovery, cross-examination and rebuttal—Verizon's unsupported assertions concerning the long-run level of uncollectables can be given no weight.

Third, even if the current turmoil in the CLEC sector were to continue unabated for years, Verizon has not shown that its current rate of uncollectables from CLECs reflects the rate that an efficient provider of UNEs would experience in the long run. A prudent and efficient supplier of UNEs and wholesale services would reasonably enforce the existing rules governing security deposits and advance payments from those CLECs that prove unable or unwilling to pay legitimate Verizon charges. Enforcement of existing security arrangements should result in a lower rate of uncollectables than Verizon allegedly has suffered, even assuming that the 2001 data presented by Verizon are accurate and truly reflect the state of compensation between Verizon and the CLECs

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[29] Verizon Submission at 1-2.

in the long run. Accepting Verizon's 2001 rate of uncollectables in lieu of evidence on the rate that a prudently vigilent firm would incur over the long run would violate the efficiency requirement of the TELRIC cost standard, and force credit-worthy CLECs like AT&T to cross-subsidize less credit-worthy competitors.

Finally, Verizon's claims about increased uncollectables could be offset to some degree by legitimate CLEC claims of over-billing or incorrect billing. Those billing problems were clearly demonstrated in Verizon's Section 271 proceeding in Pennsylvania.[31] That billing problems have not abated is demonstrated by the recent experience that CLECs have documented in pursuing resolution of billing claims.[32] Such billing difficulties are also illustrated by the recent double billing of UNE-P accounts described by Verizon VA's witnesses in the Virginia 271 proceeding, which by Verizon's own admission are still unresolved.[33]

Verizon's request for regulatory relief in this arbitration for assertedly increased uncollectables would be considerably undercut if in fact any significant amount of the shortfalls Verizon complains of are caused by incorrect billing by Verizon. In addition, Verizon's claims here would be directly affected by evidence of how Verizon is dealing with those complaints – in other words, evidence of whether or not it is has been

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30 Verizon Submission at 2, footnote 2.

31 *See*, e.g., *In the Matter of Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, CC Docket No. 01-038 (September 19, 2001) at ¶¶ 22-29.

32 Virginia Case No. PUC-2002-00046, Cox Direct Testimony of Michelle Gee, dated May 3, 2002 at pages 8-15 and NTELOS Direct Testimony of Steven H. Goodman, dated May 3, 2002 at page 6.

33 WC Docket No. 02-214, Joint Reply Declaration of Kathleen McLean, Raymond Wierzbicki, and Catherine T. Webster (September 12, 2002), ¶ 56. The double billing was caused by minutes of use being accrued in both CRIS and expressTRAK for accounts that had been transitioned from SOACS to expressTRAK.

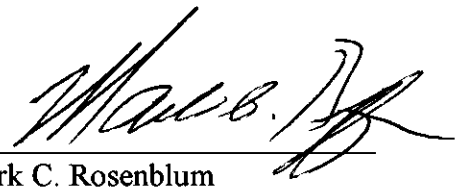
compensating CLECs for incorrect billing. This, along with the other aspects of UNE costs raised above, is but another example of the need for an exacting scrutiny that would be required of Verizon's claims were the record to be updated as Verizon suggests.

CONCLUSION

The Bureau should disregard the additional evidence that Verizon has belatedly submitted. If the Bureau were to consider it – which it should not – it would need to reopen the record for other pricing issues for which Verizon's costs may have decreased, and provide parties an opportunity to file their own evidence on the issues, cross-examine Verizon's witnesses, and file briefs. That would be ill-advised, however, because nothing Verizon has raised warrants any delay in deciding this case.

Respectfully submitted,

AT&T CORP.

By /s/ 

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Dated: September 27, 2002

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Petition of AT&T Communications of Virginia, Inc., Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon-Virginia, Inc.	)	**CC Docket No. 00-251**

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2002, a copy of the Opposition of AT&T Communications Of Virginia LLC To Verizon Virginia Inc.'s Submission Of Additional Record Evidence was sent via email or overnight mail to:

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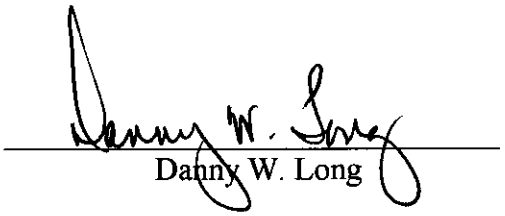

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